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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,747	01/02/2002	Gerald Tromblee	PCC 104	2955
7590 04/21/2004			EXAMINER	
Donald J. Perreault, Esq. Grossman, Tucker, Perreault & Pfleger, PLLC 795 Elm Street Suite 604 Manchester, NH 03101			PATIDAR, JAY M	
			ART UNIT	PAPER NUMBER
			2862	

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/038,747

Applicant(s)

TROMBLEE ET AL.

Examiner

Jay M. Patidar

Art Unit

2862

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 17-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/13/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. This communication is in response to applicants response filed on January 12, 2004.
2. Claims 17-56 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. filed on January 12, 2004.
3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
4. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
5. Claims 1,3,13 are objected to because of the following informalities:  
  
In claim 1, there is no antecedent basis for "position sensor" at line 4;  
Position sensor is a whole device; how position of a sensor control element

relative to position sensor is determined; Perhaps applicant intends to say "sensor elements";

In claim 3, the phrase "response movement" at line 2 should be --- response to movement---;

In claim 13, the scope of the claim is not clearly understood from the language of the claim.

Appropriate correction is required.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6,8-14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tolmie, Jr. (5,029,304).

Tolmie discloses a non-contact position sensor wherein a plurality of sensor elements e.g. 30-41 configured in an array to provide an output associated with a plurality of positions of a magnet 42 wherein a separate combination of the outputs is provided for each of the positions (Note Figs 1-7,12).

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7,15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tolmie in view of Stegall et al. (6,352,137).

Tolmie discloses a non-contact position sensing apparatus as explained above except for the use of the shunt. The use of the shunt is known in the art as evidenced by Stegall at Col. 8, lines 1+. Consequently, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Tolmie depending upon its desirability and suitability to include shunt as taught by Stegall to block magnetic field to the sensing element.


As to claim 7, the use of biasing magnet would also considered a common approach by the artisan to enhance the sensitivity of the device (Note US 5,500,589, col. 1, lines 20+).

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,793,200; 5,530,345; 6,163,125; 5,356,399.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jay M. Patidar whose telephone number is 571-272-2265. The examiner can normally be reached on M-Thur 7:00-5:30.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jay M. Patidar  
Primary Examiner  
Art Unit 2862

April 16, 2004